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Attorneys for Defendants William E. and Desiree B. Moore
Revocable Trust; Trustees of The William E. and Desiree B. Moore
Revocable Trust; Desiree B. Moore Revocable Trust;
William E. Moore Marital Trust; William E. Moore
Generation-Skipping Trust; and Desiree Moore

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN FRANCISCO AND OAKLAND DIVISION

THOMAS FERNANDEZ, LORA SMITH and
TOSHA THOMAS, individually and on behalf of a
class of all other persons similarly situated,

Plaintiff,

vs.

K-M INDUSTRIES HOLDING CO., INC.; K-M
INDUSTRIES HOLDING CO., INC. ESOP PLAN
COMMITTEE; WILLIAM E. AND DESIREE B.
MOORE REVOCABLE TRUST; TRUSTEES OF
THE WILLIAM E. AND DESIREE B. MOORE
REVOCABLE TRUST; CIG ESOP PLAN
COMMITTEE; NORTH STAR TRUST COMPANY;
DESIREE B. MOORE REVOCABLE TRUST;
WILLIAM E. MOORE MARITAL TRUST;
WILLIAM E. MOORE GENERATION-SKIPPING
TRUST; and DESIREE MOORE, BOTH IN HER
INDIVIDUAL CAPACITY AND AS TRUSTEE OF
THE WILLIAM E AND DESIREE B. MOORE
REVOCABLE TRUST'S SUCCESSOR TRUSTS
NAMED ABOVE,

Defendants.

) Case No. C 06-07339 CW

) **[PROPOSED] ORDER**
) **GRANTING DEFENDANTS**
) **WILLIAM E. AND DESIREE B.**
) **MOORE REVOCABLE TRUST,**
) **TRUSTEES OF THE WILLIAM E.**
) **AND DESIREE B. MOORE**
) **REVOCABLE TRUST, DESIREE**
) **B. MOORE REVOCABLE TRUST,**
) **WILLIAM E. MOORE MARITAL**
) **TRUST, WILLIAM E. MOORE**
) **GENERATION-SKIPPING**
) **TRUST, AND DESIREE B.**
) **MOORE'S MOTION FOR**
) **SUMMARY JUDGMENT**

) DATE: July 31, 2008

) TIME: 2:00 p.m.

) CTRM: 2, 4th Floor

) JUDGE: Hon. Claudia Wilkin

Defendants William E. and Desiree B. Moore Revocable Trust, Trustees of the William E. and Desiree B. Moore Revocable Trust, Desiree B. Moore Revocable Trust, William E. Moore Marital Trust, William E. Moore Generation-Skipping Trust (collectively the “Trust Defendants”), and Desiree B. Moore having moved this Court for an Order granting summary judgment on all plaintiffs’ claims against them, and the Court having heard all arguments of counsel and having considered all papers filed in support and in opposition to the motion, and for good cause appearing,

IT IS HEREBY ORDERED AND ADJUDGED THAT:

1. Pursuant to Federal Rule of Civil Procedure 56, the Trust Defendants and Desiree B. Moore are entitled to summary judgment on each of plaintiffs’ claims for relief;

2. The undisputed facts establish that each of plaintiffs’ claims for relief were brought more than six years after the dates of the transactions on which plaintiffs’ allegations are based;

3. The undisputed facts also establish that there was no fraud or concealment on the part of the Trust Defendants and/or Desiree B. Moore related to the facts underlying the plaintiffs’ claims for relief;

4. Each of plaintiffs’ claims for relief are therefore barred by the provisions of 29 U.S.C. § 1113;

5. The Trust Defendants and Desiree B. Moore are entitled to an award of their reasonable attorneys’ fees and costs pursuant to 29 U.S.C. § 1132(g);

6. The motion for summary judgment of the Trust Defendants and Desiree B. Moore is hereby GRANTED as to each of plaintiffs’ claims for relief, and judgment on plaintiffs’ claims shall be entered in favor of the Trust Defendants and Desiree B. Moore, dismissing this action against them and awarding the Trust Defendants and Desiree B. Moore their reasonable attorneys’ fees and costs in defense of this action.

DATED:

The Honorable Claudia Wilken
United States District Judge
Northern District of California